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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

CEDRIC ALLEN RICKS,

\*

4:20-cv-1299-O

Petitioner

\*

4-20CV-12990

vs.

\*

Capital Case  
NO. \_\_\_\_\_

BOBBY LUMPKIN,

\*

Director, Texas Department  
of Criminal Justice, Correctional  
Institutions Division

\*

\*

Respondent

\*

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FORT WORTH DIVISION  
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**MOTION FOR APPOINTMENT OF COUNSEL -**

**THIS IS A DEATH PENALTY CASE.**

Undersigned counsel, Catherine Clare Bernhard, respectfully asks this court to appoint one or more qualified attorneys to represent Petitioner, Cedric Allen Ricks in his federal habeas corpus proceedings. This motion is made pursuant to 18 U.S.C. § 3599 and McFarland v. Scott, 512 U.S. 849 (1994).

In support of this request, counsel states as follows:

1. Cedric Allen Ricks was convicted of capital murder in the 371<sup>st</sup>

Judicial District Court of Tarrant County, Texas, and was

sentenced to death on May 16, 2014. His conviction and sentence

were affirmed on direct appeal by the Texas Court of Criminal Appeals on October 4, 2017. Cedric Allen Ricks v. State, No. AP-77,040 (Tex. Crim. App. Oct. 4, 2017)(not designated for publication) cert. denied, 138 S.Ct. 1553 (2018). On June 13, 2016, Mr. Ricks timely filed his initial Application for a Writ of Habeas Corpus in the 371<sup>st</sup> Judicial District Court of Tarrant County, Texas. The trial court entered findings of fact and conclusions of law recommending that relief be denied. The Court of Criminal Appeals denied relief on November 18, 2020. Ex parte Ricks, WR-85,278-01 (Tex. Crim. App. Nov. 18, 2020).

2. Throughout state habeas corpus proceedings, Mr. Ricks was represented by appointed counsel. He was then, and is now, without the means to retain counsel. He has never before filed a federal petition for a writ of habeas corpus in this case.
4. Mr. Ricks is entitled to appointment of counsel. He has never before presented his constitutional claims for relief to a federal court. He is entitled to the assistance of counsel in order to present those claims. Moreover, that counsel must be provided with the time sufficient to become familiar with the facts of the case, and to meaningfully research and present Mr. Ricks' claims.

3. The continued representation of undersigned counsel, Catherine Clare Bernhard, would present a conflict of interest in light of Martinez v. Ryan, 566 U.S. 1 (2012) and Trevino v. Thaler, 569 U.S. 413 (2013). Therefore, Mr. Ricks seeks the appointment of new counsel for his federal habeas proceeding.
4. This Court's CJA Plan, Miscellaneous Order No. 3 (rev. July 2018), provides that this Court "should appoint the [Federal Public Defender for the Northern District of Texas ("FPD")], consistent with funding and staffing levels of the FPD related to these types of cases, when no conflict of interest exists". § XIV.F.2. Undersigned counsel has communicated with Jeremy Schepers, Supervisor of the FPD's Capital Habeas Unit, who has informed the undersigned that his office is able and willing to represent Mr. Ricks in this matter. Therefore, consistent with this Court's CJA plan, the FPD's Capital Habeas Unit should be appointed as counsel.
5. The contact information for that office is:

Jason D. Hawkins  
Federal Public Defender  
Northern District of Texas  
525 Griffin Street, Suite 629  
Dallas, Texas 75202  
214-767-2746

214-767-2886 – fax  
[Jason\\_Hawkins@fd.org](mailto:Jason_Hawkins@fd.org)

And:

Jeremy Schepers  
Supervisor, Capital Habeas Unit  
Northern District of Texas  
525 Griffin Street, Suite 629  
Dallas, Texas 75202  
214-767-2746  
214-767-2886 – fax  
[Jeremy\\_Schepers@fd.org](mailto:Jeremy_Schepers@fd.org)

6. WHEREFORE, Petitioner, Cedric Allen Ricks, respectfully requests this Court appoint the Federal Public Defender for the Northern District of Texas, Capital Habeas Unit, as counsel for the federal habeas corpus proceedings.

Respectfully submitted,



Catherine Clare Bernhard  
Texas Bar No. 02216575  
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Seagoville, Texas 75159  
972-294-7262  
fax – 972-421-1604  
[cbernhard@sbcglobal.net](mailto:cbernhard@sbcglobal.net)

ATTORNEY FOR  
PETITIONER ON STATE  
HABEAS

### **CERTIFICATE OF CONFERENCE**

This certifies that on November 30, 2020, undersigned counsel conferred with counsel for Respondent, Rachel Patton, concerning Petitioner's Motion for Appointment of Counsel. Counsel for Respondent indicated that she does not oppose the Motion.

\_\_\_\_\_  
  
\_\_\_\_\_

### **CERTIFICATE OF SERVICE**

This certifies that a true and correct copy of the foregoing Motion for Appointment of Counsel has been served upon counsel for Respondent, Office of the Attorney General, Criminal Appeals Division, P.O. Box 12548, Capitol Station, Austin, Texas 78711, by electronic service to [Rachel.Patton@oag.texas.gov](mailto:Rachel.Patton@oag.texas.gov) on November 30, 2020.

\_\_\_\_\_  
  
\_\_\_\_\_



*Catherine Clare Bernhard*

attorney

101 N. Kaufman St., Suite 256

Seagoville, Texas 75159

972-294-7262

Fax-972-421-1604

cbernhard@sbcglobal.net

November 30, 2020

United States District Court  
Northern District of Texas – Fort Worth Division  
501 West 10<sup>th</sup> St, Room 310  
Fort Worth, Texas 76102

Dear Clerk:

Enclsoed for filing is a Motion to Appoint federal counsel in a state death penalty case. I have also enclosed a check in the amount of \$5.00. Also enclosed is a copy of the motion with a self-addressed envelope so that a file stamped copy can be returned to me.

Sincerely,

  
Catherine Clare Bernhard

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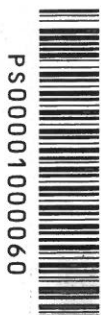
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Catherine Clare Bernhard  
attorney  
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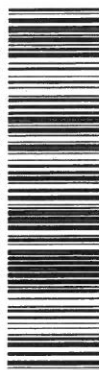
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